IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4.7.2006

Coram:

The Hon'ble Mr.JUSTICE S.RAJESWARAN

C.R.P.(PD) No.998 of 2004

1.K.Jayachandran
2.S.Sivakumar
.. Petitioners/Plaintiffs

vs.

1.The Executive Officer
Arulmigu Kottai Mariamman
Temple, having office at
A/m.Kottai Mariamman Temple
Salem.1

2.The Joint Commissioner
Hindu Religious and Charitable
Endowment, Salem
having office at
State Bank Colony, Opp. to
Sakthi Nursing Home
Salem-4.
.. Respondents/Defendants

Revision Petition filed against the order dated 1.4.2004, made in I.A.No.78/2003 in O.S.No.921/2002, on the file of the Principal District Munsif, Salem.

For Petitioners : Mr.Ram Mohan,
Senior Counsel for
Ms.S.Selvakumari.

For Respondents : Mr.M.Sundar, for R1.
Ms.R.Revathi,
Government Advocate, for AGP(CS)
for R2.

ORDER:

This Revision Petition has been filed against the order dated 1.4.2004, made in I.A.No.78/2003 in O.S.No.921/2002, on the file of the Principal District Munsif, Salem.

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2. The plaintiffs in the suit are the Revision Petitioners.

3. The plaintiffs filed O.S.No.921/2002 on the file of the Principal District Munsif, Salem for a permanent injunction restraining the 1st respondent, Executive Officer of Arulmigu Kottai Mariamman Temple, Salem, from interfering with their customary rights. When the suit was pending, the revision petitioners/plaintiffs filed I.A.No.78/2003 under Order 1, Rule 10 of the Code of Civil Procedure to implead Joint Commissioner, Hindu Religious & Charitable Endowment, the 2nd respondent herein as a proposed party in the suit. The trial Judge by order dated 1.4.2004 dismissed I.A.No.78/2003 holding that the 2nd respondent herein need not be impleaded in the suit. Aggrieved by the order dated 1.4.2004, this revision petition has been filed by the plaintiffs.

4. Heard the learned Senior Counsel appearing for the petitioners and the learned counsel for the 1st respondent and the learned Government Advocate (CS) for the 2nd respondent.

5. The learned Senior Counsel appearing for the petitioners contended that as the 2nd respondent is a quasi-judicial authority as per Sec.63 of the H.R. & C.E. Act 22/1959, he is a necessary party to determine the issue in the suit. He further brought to my notice the oral direction of the 2nd respondent calling upon the revision petitioners to hand over the keys and pooja articles of the temple to 1st respondent/Executive Officer and in such circumstances the trial court ought to have allowed the impleading petition.

6. Per contra, learned counsel for the 1st respondent and the learned Additional Government Pleader for the 2nd respondent submitted that as 1st respondent alone is the sole authority to manage the affairs of the temple, the trial Judge has rightly dismissed the impleading petition.

7. It is the case of the revision petitioners that their customary rights as poosaris were already upheld by the Sub-Court, Salem in O.S.No.129/1980. As they approached the Sub-Court for declaring their rights, the temple administration became inimical towards them and started interfering with their customary rights. As the 1st respondent/Executive Officer threatened to take action against them, they filed O.S.No.921/2002 for a permanent injunction against the Executive Officer. But 2nd respondent/Joint Commissioner has also started interfering with their customary rights, when the suit is pending, by calling upon them on 11.1.2003 and directing them to hand over the pooja articles and the keys of the suit temple to first respondent within two days. Therefore, they filed I.A.No.78/2003 for impleading the 2nd respondent/Joint Commissioner also in the pending suit.

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8. The trial Judge after going through the counter of the 2nd respondent/Joint Commissioner dismissed the impleading petition on the ground that the Executive Officer is the only person having the administrative authority over the temple even as per the contention of the 2nd respondent/Joint Commissioner.

9. Therefore, I do not find any illegality nor infirmity in the order passed by the trial court. The prayer in the suit itself is for a permanent injunction restraining the Executive Officer from interfering with the plaintiffs' customary rights. If that being so, without amending the prayer by asking for a permanent injunction against the Joint Commissioner also and without disclosing a cause of action against Joint Commissioner, there is no necessity to implead him in the pending suit.

10. Moreover, a party can be impleaded only when there is a cause of action against him and where his presence is necessary and proper for effective adjudication of the dispute involved in the suit.

11. The Executive officer is the administrative head of the temple who is answerable to its day-to-day affairs and the Joint Commissioner is a supervisory authority in charge of many temples. Therefore as rightly held by the trial court, the 2nd respondent/Joint Commissioner need not be impleaded in the suit.

12. In the result, the Civil Revision Petition is dismissed as devoid of merits. No costs. C.M.P.No.10283/2004 is also dismissed.

sks

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Principal District Munsif, Salem.

+ one cc to Mr.S.Selvakumari, Advocate Sr.No.28349.
+ one cc to Mr.M.Sundar, Advocate Sr.No.28436.

NG (CO)/RSM/11.7.2006

C.R.P.(PD)998/04.

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